IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8531 OF 2007

Smt.Tulsidas Pitambar Shah
& Ors. .. Petitioners

Vs.

The State of Maharashtra & Ors. .. Respondents

AND

WRIT PETITION NO.8578 OF 2007

Shri Janardan Bhau Nemane .. Petitioner

Vs.

The State of Maharashtra & Ors. .. Respondents

Mr.V.P.Kasle for the petitioners

Mr.P.I.Khemani, A.G.P. for the respondents

CORAM : J.N.PATEL &
SMT.NISHITA MHATRE, JJ.

DATED : 13TH DECEMBER, 2007

P.C.:

1. As these two petitions involve common facts and issues, they are being disposed of by this common order.

2. The petitioners are the owners of the land situated at Village Morbe, Taluka Khalapur, District Raigad. It is the case of the petitioners that by Notification dated 21.7.1988, the petitioners' land came to be acquired for the purpose of Morbe Dam Project. An award came to be passed under Section 11 of the Land Acquisition Act. Though the petitioners did not challenge the award by filing a Reference under Section 18 of the Land Acquisition Act, other persons affected by the award sought reference and the Reference Court awarded compensation to them. The petitioners therefore, filed an application for enhancement of compensation under Section 28A of the Land Acquisition Act on 24.6.1999. The said application has not been decided by the Respondents and, therefore, the petitioners are required to approach this court seeking an order and/or directions to call upon the respondent Nos.2 and 3 to decide and dispose of the petitioners' application under Section 28A of the said Act within a stipulated period and award them compensation at the rate which was awarded in L.A.R. No.23/95 and to

compensate them accordingly.

3. Limited relief sought for by the petitioners is that their application under Section 28A of the Land Acquisition Act should be decided by Respondent Nos.2 and 3. We, therefore, direct Respondent Nos.2 and 3 to take decision in the matter of application filed by the petitioners under Section 28A of the Land Acquisition Act within a period of three months from the date of communication of this order. We expect the authorities to pass speaking orders in the matter rather than summarily disposing of the application after giving an opportunity to the petitioners of hearing.

4. Needless to say that while deciding the application of the petitioners under Sections 28A of the Land Acquisition Act by Respondent Nos.2 and 3, they will take into consideration the decision of this Court as well as the Supreme Court on the point which settles law on the issue of enhancement of compensation under Section 28A of the Land Acquisition Act particularly the decision in the

case of **Union of India and others vs. Mangatu Ram reported in AIR 1997 SC 2704** as well as the recent decision of the Supreme Court on the issue.

5. Both the petitions stand disposed of accordingly. The petitioners to communicate this order to Respondent nos.2 and 3.

(J.N. PATEL, J)

(SMT.NISHITA MHATRE, J)